

The Tichborne Case and Law Study.

Some one has said that a foreigner has at least the advantage of forming an unpopular taste for geography; and no one whose memory extends back to the days of the siege of Sebastopol can fail to recollect how learned everybody then was about the Danubian-Principalities, the range-of-the-Balkan, the port of Sinope, and the Sea of Marmora. In like manner, a great trial like the Tichborne case has the effect of arousing its interest in directing the public to legal studies. Nine-months ago, who, beyond that sacred body which enjoys the monopoly of legal learning, ever troubled himself about such questions of judicial procedure as during the past nine months have from time to time furnished almost as much matter for discussion as the state of the weather or the political theories of the day?

Mr. Tichborne was a mere alumnus of the law, a few laymen could give off-hand an intelligible account of the difference between common and a special jury. Lately, however, almost everybody has grown dictatorial upon these points; and if there is anyone now who is ignorant of what a "falsus" is, or what is the nature of privilege, or how and when a Judge is justified in interfering with a plaintiff may sue, or how a defendant may be compelled to be prosecuted, it is certainly not for lack of volunteer instructors. The history of the Tichborne case assuredly does not demonstrate the common notion that legal points are dry matters which cannot be made attractive to the ordinary mind. Indeed, some of the most entertaining episodes of the proceedings have arisen from legal points, and the "General" and "Brother" Ballantine, or the learned juniors of those distinguished advocates. When either of those gentlemen has risen to launch sarcastic compliments at the head of the other, while insisting that his learned brother's notion of law was altogether wrong, the flagging attention of spectators was revived; and—with the exception of those who, in order to obtain the wranglings had been costing something like three pounds a minute—all have joined in the sport with the eagerness of those mere on-lookers who always follow a hunt upon their worn-out hawks. It would be a pity that these newly-awakened curiosity upon the mysteries of law should pass away with the famous trial which has aroused it; and any way, some of the legal points brought into prominence in the Tichborne case are of the most important nature.

There is the question of privilege between attorney and client. To some, no doubt, it has been a surprise to learn that gentlemen-at-law be in court, possessed of much knowledge and whole boxes full of documents of the highest importance to the inquiry in the progress, and that his month may yet be employed so closely that even a Lord Advocate must be remembered is not confined to the attorney in the case; it embraces every counsel and every clerk, and even any other person, so far as he has acted as an intermediary or agent between those gentlemen and their client in the matter of the suit. Seeing that justice must often be baffled by this rule, the law may perhaps be inclined to doubt its utility. "The great art of the attorney is to shirk," is a proverbial saying in England, and it is exceedingly well known to counsel that the proper time arrives for divulging all the dramatic incidents in this case which arose from presenting to a witness a document and requesting an explanation of some portion of the whole was read. More than once, the witness examined in this case would have been glad enough to have been asked to explain a document which had to do with this case; and no doubt the course adopted on both sides would have been considerably modified if such could have extracted from professional witnesses the secrets of their case. This, however, would never do. The very idea is enough to ruffle the perfection of the Attorney-General, or to rob the hawk's eye of its facious sparkle. Still, it is a comfort to be reminded by Lord Chief Justice, that the privilege has its limits, and that an attorney is permitted in fairness to himself, and is moreover bound in the interests of public justice, to divulge the truth when he knows bears on a criminal prosecution.

There is also the question of the exclusion of evidence. Lawyers are not to be taken for granted. It is difficult now to conceive that at so very remote date such an examination as that of the Plaintiff in the Tichborne case would have been impossible; the old law declaring parties to a suit incompetent through interest. The Tichborne case without the twenty-six days' examination of the Claimant would certainly have been a greater mystery than it has ever been since that it has been wisely abolished; but every one can understand the wisdom of the great fundamental maxims which require that the very best kind of evidence should be brought forth for fortification and, above all, that mere hearsay and gossiping should not be admissible. Such maxims no doubt often deprive juries of testimony which to some in an ordinary inquiry in a civil case would be of great value; and in extreme cases there is often much that is tantalising in the operation of these legal barriers.

When one witness in this case affirmed that he had seen a young gentleman who had been shipwrecked aboard a boat at Melbourne about about the period when Roger Tichborne was alleged to have arrived there, the Lord Chief Justice, in perfect accordance with the rule of law, forbade him to state the name of the gentleman, and placed between them, and that even if this man had said he ever saw Tichborne, "the fact would not be evidence." Simple readers may well have been startled by such an application of the rules of judicial inquiry; for if any young man in London under such circumstances, the fact would have been a strong one for the defence. The Lord Chief Justice said that some one said that it was Roger Tichborne; and therefore, the Judge held, this was but a conversation between a witness and a person not known to have any connection with the case. No doubt the hypothesis is an extreme one, but it has probably not increased the reverence of the general reader for the rule. 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to continue to accord benefits and to be greedy, pretentious, any of suffice; and the spectacle of having seen through and the sensation routed and overthrown will in some arouse the evil spirit which may appeared again in this world.—The foolish emities often date from the of last wills and testaments, and man lies ungrateful in his grave for as far as one or two persons are concerned, but, since that quiet resting-place is generalized thus from the very occurrence, "that, it is so," prepares the crime, the criminal, the instrument, which executes the remarkable effect of our social system in the ages at which people meet relative proportion of young men and old wives. With regular periodic years, out of 10,000 marriages some twenty thirty, and the average of age men by the over sixty years of age men and under thirty years of age women of sixty or older. His descent even to such apparent cases as the number of letters among men without addresses, these bearing stout proportion to the whole number of individuals, thus far, M. Quetelet conceives that the will be controlling human actions in The propensity to theft is more as great between the ages of twenty twenty five as between thirty-five whence a hopeful inference may that experience enforces the maxim is the best policy." We are not to find that the mortality among the is half as much again as among the rich, but that the mortality among the of crime to the uneducated class striking. In France the number of who could not read or write was per cent; and of those who could write; in England these numbers determined to be thirty-six and thirty-five. Surely here is an argument in favor of national education! Why there is determination of certain actions to most part of the day, and the influence. But that there is a reason at work is clear, from that of persons who hang themselves do so between six and eight the morning, against thirty-two at the let the hours between twelve at the middle of the day. The most know, is a criminal time for the crime, perhaps many of these are the result of the day, and the influence. At all events, it is the culminating point of those which determine this form of suicide are about five children, born in the four born in the day-time; the time being midnight, and the moon. The proportion of boys is about 106 to 100, and M. Quetelet is explained, not by the influence but by the fact of the husband to the wife, and more able to suffer in comfort. We are not to accept this view, when there are yet imperfectly understood facts, creatures lower than man, seem a direct physiological cause. The conclusion of this doctrine, that the product of society, open to the most of the day, and the influence. Towards its members to use every and reformatory measure possible to physical characteristics, M. Quetelet that there is a central type of man, leaving the mean between the of the men of a nation. Taking of the American army, he found the thousand 68 in height (4 ft. 10 in. of 60 in. and two of 72 in. The mean of measurements roundly was 204 men per thousand, 535 of 28 in., and one of 30 in. numbers running up to and down mean with so much regularity as the of being expressed by a regular. These are not merely curiosities of and although this method of in the moral physical averages of the only set of the primitive state, it is pertinent suggestions to those who the connection between biological phenomena. As to the of society—the low physical and of a very large class in population known, and the general cause also is therefore the part of society the causes, which operate in the of evil otherwise nature steps in the of crime, and the influence. The demoralized elements by disease and evolutions.

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